

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Robert G. Taub

Competitive Product Prices
International Business Reply Service Competitive
Contract 3 (MC2011-21)
Negotiated Service Agreement

Docket No. CP2012-16

NOTICE AND ORDER CONCERNING FILING OF A FUNCTIONALLY EQUIVALENT
INTERNATIONAL BUSINESS REPLY SERVICE COMPETITIVE CONTRACT 3
NEGOTIATED SERVICE AGREEMENT

(Issued February 14, 2012)

I. INTRODUCTION

On February 13, 2012, the Postal Service filed a notice announcing that it has entered into an additional International Business Reply Service (IBRS) contract.¹ The Postal Service asserts that the instant contract is functionally equivalent to the IBRS 3 baseline contract originally filed in Docket Nos. MC2009-14 and CP2009-20 and supported by Governors' Decision No. 08-24 attached to the Notice (IBRS 3 baseline

¹ Notice of the United States Postal Service Filing of a Functionally Equivalent International Business Reply Service Competitive Contract 3 Negotiated Service Agreement, February 13, 2012 (Notice).

contract). *Id.* Attachment 3. The Notice explains that Order No. 684, which established IBRS Competitive Contracts 3 as a product, also authorized functionally equivalent agreements to be included within the product, provided that they meet the requirements of 39 U.S.C. 3633. *Id.* at 1-2. Additionally, the Postal Service claims that the instant contract is the successor to the instrument that the Commission found to be eligible for inclusion in the IBRS Competitive Contract 3 product in Docket Nos. MC2011-21 and CP2011-59, on behalf of the same customer as in Docket No. CP2011-59. *Id.* at 3.

The instant contract. The Postal Service filed the instant contract pursuant to 39 CFR 3015.5. The Postal Service also contends that the instant contract is in compliance with Order No. 178. The instant contract is intended to be a successor to the IBRS Contract submitted in Docket Nos. MC2011-21 and CP2011-59, which is scheduled to expire on February 29, 2012. *Id.* at 2. The instant contract will remain in effect until March 1, 2014, unless termination of the agreement occurs earlier. *Id.* It may, however, be terminated by either party upon 30 days' written notice. *Id.* Attachment 1 at 10.

In support of its Notice, the Postal Service filed four attachments as follows:

- Attachment 1—a redacted copy of the contract and applicable annexes;
- Attachment 2—a certified statement required by 39 CFR 3015.5(c)(2);
- Attachment 3—a redacted copy of Governors' Decision No. 08-24, which establishes prices and classifications for IBRS contracts, a description of applicable IBRS contracts, formulas for prices, an analysis of the formulas, a certification as to the formulas for prices offered under applicable IBRS contracts, and certification of the Governors' vote; and
- Attachment 4—an application for non-public treatment of materials to maintain redacted portions of the contract and file supporting documents under seal.

The Notice enumerates the reasons why the instant IBRS Competitive Contract allegedly fits within the Mail Classification Schedule language for IBRS Competitive Contract 3. The Postal Service identifies general contract terms that distinguish the

instant contract from the IBRS 3 baseline contract, such as: an additional sentence in Article 15 stating that the Postal Service may be required to file information in connection with the contract in other Commission dockets; and an additional Article 30 concerning Intellectual Property, Co-Branding, and Licensing. *Id.* at 5. The Postal Service states that the differences affect neither the fundamental service that the Postal Service is offering nor the fundamental structure of the contract. *Id.*

The Postal Service concludes that its filing demonstrates that the new IBRS contract complies with the requirements of 39 U.S.C. 3633 and is functionally equivalent to the IBRS 3 baseline contract filed in Docket Nos. MC2011-21 and CP2011-59. *Id.* at 6. Therefore, it requests that the instant contract be included within the IBRS Competitive Contract 3 (MC2011-21) product. *Id.*

II. NOTICE OF FILING

The Commission establishes Docket No. CP2012-16 for consideration of matters related to the contract identified in the Postal Service's Notice.

Interested persons may submit comments on whether the Postal Service's contract is consistent with the policies of 39 U.S.C. 3633 and 39 CFR 3015.5. Comments are due no later than February 22, 2012. The public portions of this filing can be accessed via the Commission's website, <http://www.prc.gov>.

The Commission appoints James F. Callow to serve as Public Representative in the captioned proceeding.

III. ORDERING PARAGRAPHS

It is ordered:

1. The Commission establishes Docket No. CP2012-16 for consideration of matters raised by the Postal Service's Notice.

2. Comments by interested persons in this proceeding are due no later than February 22, 2012.
3. Pursuant to 39 U.S.C. 505, James F. Callow is appointed to serve as the officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.
4. The Secretary shall arrange for publication of this Order in the *Federal Register*.

By the Commission.

Shoshana M. Grove
Secretary